



PATENT APPLICATION

Docket No: 13447.37

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)
)
T. Wade Fallin et al.)
)
Serial No.: 10/648,068) Art Unit
) 3763
Filing Date: August 26, 2003)
)
Confirmation No.: 3366)
)
For: BODILY TISSUE DILATION SYSTEMS AND)
METHODS)

CERTIFICATE OF DEPOSIT UNDER 37 C.F.R. § 1.8

I hereby certify that the following documents are being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, PO Box 1450, Arlington, Virginia 22313-1450, on the 1st day of March 2004.

- Transmittal for Information Disclosure Statement (3 pages)
- Information Disclosure Statement (2 pages)
- Form PTO-1449 listing 32 references (3 pages)
- A copy of one of the references list on the Form PTO-1449
- Postcard

Respectfully submitted,

DANA L. TANGREN
Attorney for Applicant
Registration No. 37,246

WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 533-9800
Facsimile: (801) 328-1707

DLT:dfw

W:\13447\37\DFW0000008835V001.DOC



R. PARRISH FREEMAN, JR.
PETER F. MALEN, JR.
L. REX SEARS, PH.D.
ERIC M. KAMERATH
ROBERT E. AYCOCK
JENS C. JENKINS
KEVIN W. STINGER
WILLIAM J. ATHAY
MICHAEL B. DODD
WILLIAM R. RICHTER
RYAN D. BENSON
SARA D. JONES
TIGE KELLER
JANNA L. JENSEN
MATTHEW D. TODD
J. LÅVAR OLDHAM
MICHAEL J. FRODSHAM
JOSEPH L. KRUPA
BRETT A. HANSEN
BRETT I. JOHNSON
MATTHEW A. BARLOW
WESLEY C. ROSANDER
ANDREW S. HANSEN
CHAD E. NYDEGGER
JOSEPH G. PIA
CLINTON E. DUKE

WORKMAN | NYDEGGER

INTELLECTUAL PROPERTY ATTORNEYS

1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UTAH 84111
TELEPHONE: (801) 533-9800
FAX: (801) 328-1707
WEBSITE: [HTTP://WWW.WNLAW.COM](http://www.wnlaw.com)



PATENT APPLICATION

Docket No: 13447.37

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

T. Wade Fallin et al.

Serial No.: 10/648,068

Filing Date: August 26, 2003

Confirmation No.: 3366

For: **BODILY TISSUE DILATION SYSTEMS AND METHODS**

TRANSMITTAL FOR INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing and pursuant to 37 C.F.R. § 1.97 is an Information Disclosure Statement, which includes the following statements, if any, required variously by 37 C.F.R. § 1.98:

Statement of relevance of selected cited references not in the English language which are not translated.

Statement that selected cited references are substantially cumulative of an enclosed or previously submitted reference.

Statement that selected cited references were previously cited by or submitted to the United States Patent and Trademark Office in a prior application which is relied upon for an earlier filing date under 35 U.S.C. § 120.

A. Additional Materials Required Due to Content of Information Disclosure Statement

Transmitted are the following documents in addition to the Information Disclosure Statement as required variously under 37 C.F.R. § 1.98:

X Form PTO-1449 listing 37 references submitted for consideration.

X A copy of one of the references listed on the Form PTO-1449.

___ English translations of ___ (___) of the references listed on the Form PTO-1449 which are not in the English language.

___ Copies of the following documents from the prosecution of a previous, related application:

___ Form PTO-1449 AND INFORMATION DISCLOSURE STATEMENT;
and

___ Form PTO-892

B. Additional Materials Required Due to Timing of Filing of Information Disclosure Statement

The transmitted Information Disclosure Statement is being filed within one (1) of the following four (4) time periods:

I. X Prior to the later of either three (3) months following the filing date or the mailing of a first Office Action. Accordingly, no materials other than those listed above are enclosed.

II. ___ Following the latter of either three (3) months following the filing date or the mailing of a first Office Action, but before the mailing of a final Office Action or a Notice of Allowance. Accordingly, to secure consideration thereof, one (1) of the following is also enclosed:

___ Promptness Certification; or

___ Check No. _____ in the amount of \$___ constituting the submission fee set forth in 37 C.F.R. § 1.17(p).

III. ___ After the mailing of a Notice of Allowance, but before payment of the Issue Fee. Accordingly, in order to secure consideration thereof, each of the following are also enclosed:

___ Promptness Certificate;

- ____ Petition for Consideration; and
- ____ Check No. in the amount of \$_____ constituting the petition fee set forth in 37 C.F.R. § 1.17(i)(1).
- IV. ____ After payment of the Issue Fee. Accordingly, in order to secure consideration thereof, each of the following are also enclosed:
- ____ Petition to Withdraw from Issue; and
- ____ Check No. _____ in the amount of \$_____ constituting the petition fee set forth in 37 C.F.R. § 1.17(i)(1).

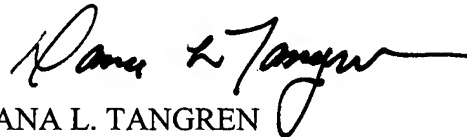
C. Fees

The Commissioner is hereby authorized to charge payment of or any deficiency in the following fees associated with this communication, or to credit any overpayment thereof, to Deposit Account No. 23-3178. A duplicate copy of this letter is enclosed.

- X Any fee required in relation to filing of this letter or any documents transmitted therewith.
- ____ The submission fee set forth in 37 C.F.R. § 1.17(p) in the event that 37 C.F.R. § 1.97(c) applies and the Examiner is not satisfied that any Promptness Certificate submitted meets the requirements of 37 C.F.R. § 1.97(e).
- ____ The submission fee set forth in 37 C.F.R. § 1.17(p).
- ____ The petition fee set forth in 37 C.F.R. § 1.17(i)(1).

Dated this 1st day of March 2004.

Respectfully submitted,



DANA L. TANGREN
Attorney for Applicant
Registration No. 37,246
Customer No. 022913



PATENT APPLICATION
Docket No: 13447.37

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)
)
	T. Wade Fallin et al.)
)
Serial No.:	10/648,068) Art Unit
) 3763
Filing Date:	August 26, 2003)
)
Confirmation No.:	3366)
)
For:	BODILY TISSUE DILATION SYSTEMS AND)
	METHODS)

INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97

Commissioner for Patents
PO Box 1450
Arlington, Virginia 22313-1450

Sir:

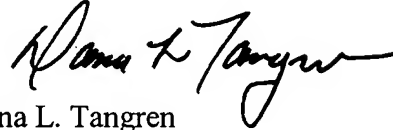
Please find, pursuant to 37 C.F.R. § 1.98(a)(1), the enclosed Form PTO-1449 which contains a list of all patents, publications, or other items that have come to the attention of one or more of the individuals designated in 37 C.F.R. § 1.56(c). While no representation is made that these references may be "prior art" within the meaning of that term under 35 U.S.C. §§ 102 or 103, the enclosed listed references are disclosed so as to fully comply with the duty of disclosure set forth in 37 C.F.R. § 1.56.

Moreover, while no representation is made that a specific search of office files or patent office records has been conducted or that no better art exists, the undersigned attorney of record believes that the enclosed art is the closest to the claimed invention (taken in its entirety) of which the undersigned is presently aware, and no art which is closer to the claimed invention (taken in its entirety) has been knowingly withheld.

In accordance with 37 C.F.R. §§ 1.97 and 1.98, a copy of each of the listed references or relevant portion thereof is also enclosed.

Dated this 1st day of March 2004.

Respectfully submitted,



Dana L. Tangren
Attorney for Applicant
Registration No. 37,246

WORKMAN, NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 533-9800

DLT:dfw
W:\13447\37\DFW0000008835V001.DOC

Applicant: T. Wade Fallin et al.

Confirmation No.: 3366

Serial No.: 10/648,068

Att'y Docket No.: 13447.37

Filing Date: August 26, 2003

Group: 3763

For: BODILY TISSUE DILATION SYSTEMS AND METHODS

INFORMATION DISCLOSURE CITATIONS MADE BY APPLICANTU.S. Patent Documents

<u>Examiner Initial*</u>	<u>Document Number</u>	<u>Issue Date</u>	<u>Name</u>
___ 1	RE 31,855	03/26/1985	Osborne
___ 2	2,707,956	05/10/1955	Koff
___ 3	3,509,883	05/05/1970	Dibelius
___ 4	3,788,318	01/29/1974	Kim et al.
___ 5	3,789,852	02/05/1974	Kim et al.
___ 6	3,811,449	05/21/1974	Gravlee et al.
___ 7	4,449,532	05/22/1984	Storz
___ 8	4,629,450	12/16/1986	Suzuki et al.
___ 9	4,686,984	08/18/1987	Bonnet
___ 10	4,738,666	04/19/1988	Fuqua
___ 11	4,772,266	09/20/1988	Groshong
___ 12	4,824,433	04/25/1989	März et al.
___ 13	4,862,891	09/05/1989	Smith
___ 14	4,899,729	02/13/1990	Gill et al.
___ 15	5,112,308	05/12/1992	Olsen et al.
___ 16	5,139,511	08/18/1992	Gill et al.

Examiner:

Date Considered:

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609, draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Applicant: T. Wade Fallin et al.

Confirmation No.: 3366

Serial No.: 10/648,068

Att'y Docket No.: 13447.37

Filing Date: August 26, 2003

Group: 3763

For: BODILY TISSUE DILATION SYSTEMS AND METHODS

<u>Examiner Initial*</u>	<u>Document Number</u>	<u>Issue Date</u>	<u>Name</u>
____ 17	5,158,543	10/27/1992	Lazarus
____ 18	5,183,464	02/02/1993	Dubrul et al.
____ 19	5,246,424	09/24/1993	Wilk
____ 20	5,342,384	08/30/1994	Sugarbaker
____ 21	5,472,426	12/05/1995	Bonati et al.
____ 22	5,591,194	01/07/1997	Berthiaume
____ 23	5,601,590	02/11/1997	Bonutti et al.
____ 24	5,685,856	11/11/1997	Lehrer
____ 25	5,846,259	12/08/1998	Berthiaume
____ 26	5,967,970	10/19/1999	Cowan et al.
____ 27	6,159,179	12/12/2000	Simonson
____ 28	6,186,986 B1	03/13/2001	Berg et al.
____ 29	6,245,052 B1	06/12/2001	Orth et al.
____ 30	6,277,094 B1	08/21/2001	Schendel
____ 31	6,360,750 B1	03/26/2002	Gerber et al.

Examiner:

Date Considered:

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609, draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Applicant: T. Wade Fallin et al.

Confirmation No.: 3366

Serial No.: 10/648,068

Att'y Docket No.: 13447.37

Filing Date: August 26, 2003

Group: 3763

For: BODILY TISSUE DILATION SYSTEMS AND METHODS

Foreign Patent Documents

Examiner Initial*	Document Number	Publication Date	Country or Patent Office	Translation
_____ 32	0 390 528 B1	06/12/1996	EPO	N/A

Other Documents

(including author, title, pertinent pages, etc.)

Examiner
Initial***References Cited by Applicants**

While the filing of Information Disclosure Statements is voluntary, the procedure is governed by the guidelines of Section 609 of the Manual of Patent Examining Procedure and 37 C.F.R. §§ 1.97 and 1.98. To be considered a proper Information Disclosure Statement, Form PTO-1449 shall be accompanied by a copy of each listed patent or publication or other item of information and a translation of the pertinent portions of foreign documents (if an existing translation is readily available to the applicant), an explanation of relevance of each reference not in the English language, and should be submitted in a timely manner as set out in MPEP Sec. 609.

Examiners will consider all citations submitted in conformance with 37 C.F.R. § 1.98 and MPEP Sec. 609 and place their initials adjacent the citations in the spaces provided on this form. Examiners will also initial citations not in conformance with the guidelines which may have been considered. A reference may be considered by the Examiner for any reason whether or not the citation is in full conformance with the guidelines. A line will be drawn through a citation if it is not in conformance with the guidelines AND has not been considered. A copy of the submitted form, as reviewed by the Examiner, will be returned to the applicant with the next communication. The original of the form will be entered into the application file.

Each citation initialed by the Examiner will be printed on the issued patent in the same manner as references cited by the Examiner on Form PTO-892.

The reference designations "A1," "A2," etc. (referring to Applicant's reference 1, Applicant's reference 2, etc.) will be used by the Examiner in the same manner as Examiner's reference designations "A," "B," "C," etc. on Office Action Form PTO-1142.

W:\1344737\DFW0000008836V001.doc

Examiner:

Date Considered:

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609, draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.